IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 8465 of 1999(G)

PETITIONER:

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1. L.VISHNU DAS,
RESIDING AT "DEEPAK",
CHITTOOR ROAD, ERNAKULAM.

2. DEEPAK L.ASWANI,
DEVI COMPLEX,
DORAI SWAMY IYER ROAD,
ERNAKULAM.

3. ASHA V.ASWANI,
W/O.L.VISHNU DAS,
"DEEPAK",
CHITTOOR ROAD, ERNAKULAM.

4. LAJWANTI D.ASWANI,
W/O.DEEPAK L.ASWANI,
DEVI COMPLEX,
DORAI SWAMY IYER ROAD,
ERNAKULAM.

BY ADV. SRI.S.R.DAYANANDA PRABHU
SRI.K.S.RAJESH

RESPONDENTS:

THE SECRETARY,
CORPORATION OF COCHIN,
PARK AVENUE,
ERNAKULAM.

BY ADV. SRI.S.RAMESH BABU, SC.COCHIN CORPN.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.14165/1999 IN O.P. NO.8465/1999

DISMISSED:

14.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONERS' EXHIBITS:

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.8465 of 1999

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Dated this the 14th day of March, 2007.

JUDGMENT

Even though O.P. is pending for the last 8 years, the Cochin Corporation has not cared to file any counter affidavit. The dispute raised in the O.P. is against increase in property tax payable in respect of 17 shop rooms. The challenge is against percentage of increase of tax under quinquennial revision. The petitioners have relied on Ext.P81 Government Order issued on 15.9.1992 directing Local Authorities to limit quinquennial revision of tax upto certain limits in percentage. In the first place, Government has no authority to issue any such Circular because the statute does not authorise Government to interfere with the Muncipality's authority to collect tax. If tax is under assessed for any building, it could be certainly made up in the course of a quinquennial revision. Therefore, in principle, I do not find the challenge is sustainable on the ground of excess percentage increase from the previous tax assessed. It is seen that from 1999 onwards this court has granted stay on condition that petitioners remit previous tax plus 50% of revised tax. In fact during pendency of O.P., time for another quinquennial revision is over which obviously the Corporation

has not done. The property tax is a major source of revenue for the Corporation and it is the height of irresponsibility on the part of the Corporation not to follow-up cases of this nature pending in this court which prevent the Corporation from recovering eligible tax from building owners. The only tenable argument raised in this case is that appeal filed against increase of tax before the Standing Committee was not properly considered by them in as much as petitioners/appellants were not heard. Since the Corporation has not responded, this court has to assume that no hearing was granted. However, I do not think any purpose will be served in remanding the matter for appeal because another quinquennial revision was due in 2002 which period is also over. In the circumstances, I direct the respondent to reconsider the revision of tax made in 1997, refix the same for petitioner's buildings based on annual value, recover the arrears and effect next quinquennial revision after five years therefrom i.e. with effect from 2002 and issue demand notice to the petitioners after hearing them, for all the years within two months from the date of production of copy of this judgment.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms